

and her husband, on the 22d of October, 1835, assigned this claim to the said deceased to secure the payment of a certain sum of money due him, and the petition expressly prays that proper proceedings at law may be instituted upon the note given by defendant, upon the compromise, and that the money when received shall be brought into court to bide its orders. To this petition, one Richard B. Duvall was made a defendant, who prior thereto, to wit: on the 5th of July, 1845, had filed in the cause an assignment by Mrs. Hall to him of this suit, and also of the note of the defendant with authority to him to prosecute the same in his discretion. Under these circumstances, it is not easy to say that the complainant Hall, would be at liberty to abandon the proceeding at law, repudiate the settlement, and insist upon a specific execution of the agreement; and I hardly think, she can be allowed to prosecute the claim in the two courts at the same time, recovering one portion thereof at law and one in equity.

But my opinion against the relief sought by this bill rests upon the ground that the mistake is neither admitted or proved, and it must therefore be dismissed.

The decree will, however, provide for the dissolution of the injunction, granted upon the petition of Stewart in January, 1846, which will leave the plaintiff at law, at liberty to proceed to collect the money for the benefit of the party or parties who may appear to be entitled thereto.

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THOMAS S. ALEXANDER, for Complainant.

THOMAS G. PRATT, for Defendant.